

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Tuesday, December 16, 2003 - - 7:00 p.m.

* * * * *

Present: Mayor William D. Euille, Vice Mayor Redella S. Pepper, Members of Council Ludwig P. Gaines, K. Rob Krupicka, Andrew H. Macdonald, Paul C. Smedberg and Joyce Woodson

Also Present: Mr. Sunderland, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Assistant City Manager; Mr. Jinks, Assistant City Manager; Mr. Caton, Legislative Director; Mr. Baier, Director of Transportation and Environmental Services; Ms. Fogarty, Director of Planning and Zoning; Ms. Ross, Deputy Director of Planning and Zoning; Ms. Davis, Director of the Office of Housing; Mr. Eiffert, Deputy Director of the Office of Housing; Ms. Boyd, Director, Citizens Assistance; Ms. Smith-Page, Director of Real Estate Assessments; Mr. Johnson, Director of OMB; Ms. Gordon, Public Information Officer; Mr. Neckel, Director of Finance; Mr. Farner, Urban Planner; Ms. Whitmore, Director of Recreation, Parks and Cultural Activities; Ms. Beeton, Planner; Mr. Dahlberg, Director of Code Enforcement; Mr. Culpepper, Deputy Director of Transportation; Mr. Samarra, Police Chief, Police Lieutenant Uzzell and Ms. Ferguson, Planner.

Recorded by: Gloria Sitton, Deputy City Clerk and Clerk of Council.

OPENING

1. Calling the Roll.

The special meeting was called to order by Mayor Euille, and the Deputy City Clerk called the Roll. All members of Council were present.

NEW BUSINESS ITEM NO. 1 Mayor Euille wished his colleagues, city staff, and the citizens of Alexandria a happy and safe Holiday Season and a Happy New Year.

NEW BUSINESS ITEM NO. 2 Mayor Euille presented a proclamation to "Celebrate Alexandria Business."

(A copy of the proclamation is on file in the office of the City Clerk and Clerk of Council and is incorporated as part of this record by reference.)

Mayor Euille presented the proclamation.

WHEREUPON, upon motion by Mayor Euille, seconded by Vice Mayor Pepper and carried unanimously City Council endorsed the proclamation. The voting was as follows:

Euille	"aye"	Krupicka	"aye"
Pepper	"aye"	Macdonald	"aye"
Gaines	"aye"	Smedberg	"aye"
	Woodson	"aye"	

2. Public Discussion Period.

(a) Ann Dorman, First Night Alexandria, presented Council with First Night Alexandria memorabilia and invited everyone to join in the fun December 31 in the downtown area.

(b) Sheryl Bell, 3805 Mt. Vernon Avenue, spoke on behalf of the Education Committee of the Tenants and Workers Support Committee, in support of a pilot project to acquire \$100,000 from the City for two educational outreach workers to help increase student achievement and reduce the minority educational gap.

(c) Laurie Kusck, 18 Arell Court, on behalf of the Quaker Village Homeowner's Association, Inc., spoke about the Quaker Ridge development approval.

(d) Suzanne Scoville, 59 Arell Court, on behalf of the Quaker Village Homeowner's Association, Inc., spoke about the Quaker Ridge development approval.

(e) Julie Crenshaw, 816 Queen Street, spoke about the Quaker Ridge development approval.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-6)

Planning Commission

3. SPECIAL USE PERMIT #2003-0097
3414-A MT. VERNON AVE
RESTAURANT
Public Hearing and Consideration of a request for an amendment to a special use permit to change the hours of operation for a restaurant; zoned CG/Commercial General. Applicant: Juan Ventura.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3, 12/16/03, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2003-0100
50 SOUTH PICKETT STREET, #23
RESTAURANT
Public Hearing and Consideration of a special use permit to operate a restaurant; zoned CG/Commercial General. Applicant: Abey Kassa

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4, 12/16/03, and is incorporated as part of this record by reference.)

5. ENCROACHMENT #2003-0003
3216 JEFFERSON DAVIS HIGHWAY
CROWN STATIONS, INCORPORATED
Public Hearing and Consideration of a request for an encroachment of light poles into the public right-of-way; zoned CSL/Commercial Service Low. Applicant: Crown Stations, Inc. by R.A. Fritz

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5, 12/16/03, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the Action Consent Calendar, with the removal of item 6. The action of City Council follows:

3. City Council approved the Planning Commission recommendation.
4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.

The voting was as follows:

Pepper	"aye"	Krupicka	"aye"
Gaines	"aye"	Macdonald	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

6. DEVELOPMENT SPECIAL USE PERMIT #2003-0038

3216 JEFFERSON DAVIS HIGHWAY
CROWN STATIONS, INCORPORATED

Public Hearing and Consideration of a request for reapproval of a development special use permit for renovation of a gas station; zoned CSL/Commercial Service Low. Applicant: Crown Stations, Inc. by Paul Encinas

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6, 12/16/03, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Woodson, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation. The voting was as follows:

Woodson	"aye"	Gaines	"aye"
Pepper	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Smedberg	"aye"	

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

None.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

7. SPECIAL USE PERMIT #2003-0062

Parcel Address: 451 North Pitt Street

TWO CITY BLOCKS BOUNDED BY PENDLETON STREET, ORONOCO STREET, PRINCESS STREET, NORTH PITT STREET AND NORTH ROYAL STREET.

SAMUEL MADDEN

Public Hearing and Consideration of a request for a special use permit to locate a sales trailer on the property for use during the sale of townhouses; zoned CRMU/Commercial Residential Mixed Use. Applicant: Eakin/Youngentob Associates by Jonathan P. Rak, attorney

COMMISSION ACTION: Recommend Approval 5-2

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7, 12/16/03, and is incorporated as part of this record by reference.)

The following persons participated in the public hearing on this item:

Carolyn Merck, 324 North Royal Street, spoke on behalf of the Old Town Civic Association about the location of the sales trailer, lighting and landscaping surrounding the trailer.

Julie Crenshaw, 816 Queen Street, spoke about the removal and preservation of the trees in the development.

Jonathan Rak, attorney for the applicant, responded to questions from Council and citizens about the development.

Councilwoman Woodson requested that staff docket tree preservation during development for a future discussion.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilwoman Woodson and carried unanimously, City Council approved the Planning Commission recommendation with the following: deletion of condition #4; amend condition #3 to state that the applicant shall provide a minimum two (2) off-street parking spaces for employees in the vicinity of proposed development; and amend condition #8 stating, "the sales trailer shall be removed twenty-four (24) months from the date of the first day of sales." The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Woodson	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Smedberg	"aye"	

8. VACATION #2003-0003
801-833 SOUTH WASHINGTON STREET, 806-828 SOUTH COLUMBUS STREET AND 712-728 JEFFERSON STREET
Public Hearing and Consideration of a request to vacate the 20 foot wide public alley adjacent to 801-833 South Washington Street; zoned CRMU-L/Commercial Residential Mixed Use-Low. Applicant: WRIT by M. Catherine Puskar, attorney

COMMISSION ACTION: Recommend Approval 6-1

9. DEVELOPMENT SPECIAL USE PERMIT #2003-0020
801-833 SOUTH WASHINGTON STREET, 806-828 SOUTH COLUMBUS .
STREET AND 712-728 JEFFERSON STREET
Public Hearing and Consideration of a request for a development special use permit, with site plan, to increase the allowable floor area ratio and to develop a multi-family residential building with underground parking, ground floor retail and retention of existing retail along South Washington Street; zoned CRMU-L/Commercial Residential Mixed Use-Low. Applicant: WRIT by M. Catherine Puskar, attorney

COMMISSION ACTION: Recommend Approval 6-0-1

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8, 12/16/03, and is incorporated as part of this record by reference.)

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9, 12/16/03, and is incorporated as part of this record by reference.)

Director of Planning and Zoning Fogarty made a presentation on the proposed development.

The following persons participated in the public hearing on this item:

Oscar Fitzgerald, member of Board of Architectural Review -- Old and Historic District, spoke in favor of the proposed development and stated that it met the Washington Street Standards.

M. Catharine Puskar, attorney for the applicant, gave an overview presentation of the proposed development and spoke in favor of the proposed development.

Lee Quill, architect for the project, gave an overview presentation of the architectural features of the project and spoke in favor of the proposed development.

Eva Poling, 913 South Alfred Street, spoke on behalf of herself and her neighbors, in opposition to the proposed development.

Susan Bartlett, 809 South Columbus Street, spoke in opposition to the proposed development.

Jon Wilbor, 310 South Lee Street, spoke in opposition to the proposed development and requested further investigation of the impact of the proposed development on the surrounding neighborhood.

Ed Braswell, 426 North Columbus Street, requested that the building articulation be changed on the Washington Street side to comply with the Washington Street Standards.

Carolyn Merck, 324 North Royal Street, on behalf of the Old Town Civic Association, spoke in favor of the proposed development.

Poul Hertel, 1217 Michigan Court, spoke in opposition to the proposed development in relation to the Washington Street Standards and requested further review of the building articulation on the Washington Street side.

Katy Cannady, 20 East Oak Street, on behalf of Alexandrians for Sensible Growth, spoke in opposition to the proposed development.

Joe Corey, 823 South Washington Street, property owner, spoke in favor of the proposed development.

Julie Crenshaw, 816 Queen Street, spoke in opposition to the proposed development.

Teresa Miller, 808 South Lee Street, spoke in opposition to the proposed development.

Linda Couture, 505 Duke Street, property owner, spoke in opposition to the proposed development.

Thomas Esbrook, 805 Green Street, spoke in opposition to the proposed development.

Ben Benson, 815 South Washington Street, business owner, spoke in support of the proposed development.

Lee Holmen, 813 Green Street, spoke in opposition to the proposed development.

Planning and Zoning staff and other City staff answered questions and participated in discussions with Council concerning the proposed development.

WHEREUPON, upon motion by Councilwoman Woodson, seconded by Vice Mayor Pepper and carried unanimously, City Council closed the public hearing. The voting was as follows:

Woodson	"aye"	Gaines	"aye"
Pepper	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Smedberg	"aye"	

A motion was made by Councilman Gaines, seconded by Councilman Macdonald and failed 2-5, to defer Council action for 30 days on the development special use permit until staff and the developer present additional information about the project, particularly density. The voting was as follows:

Gaines	"aye"	Pepper	"no"
Macdonald	"aye"	Krupicka	"no"
Euille	"no"	Smedberg	"no"
	Woodson	"no"	

WHEREUPON, upon motion by Councilwoman Woodson, seconded by Councilman Krupicka and carried 5-2, City Council approved the Planning Commission recommendation for the development special use permit with the following amendments: delete condition #66 and include with the vacation; amend condition #67 regarding lighting of the rooftop open space and include noise stipulations; amend condition #68 concerning the roof lines and their appearance with regard to the Washington Street Standards; amend condition #3a to allow the public art to be selected in consultation with the neighbors and the Alexandria Arts Council; amend condition #8e to increase (double) the number of bicycle parking spaces available for usage; include a new condition designating a citizens task force to oversee the project; amend condition #21 to increase the developer's contribution to the City's Affordable Housing Trust Fund in the amount of \$264,000 (\$3.00 per square foot) with no set aside units; and include a new condition concerning retention of neighborhood friendly retail. The voting was as follows:

Woodson	"aye"	Pepper	"aye"
Krupicka	"aye"	Gaines	"no"
Euille	"aye"	Macdonald	"no"
	Smedberg	"aye"	

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilwoman Woodson and carried 5-2, City Council approved the Planning Commission recommendation for the vacation with the following amendments: include a new condition #5 stating, "the mass, scale, and height of the existing building east of the vacated right-of-way shall not be revised, reconfigured, altered or demolished," and include a new condition #6 stating, "surface or above grade parking including such parking within a building or structure shall be prohibited on the consolidated parcel." The voting was as follows:

Pepper	"aye"	Gaines	"no"
Woodson	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"no"
	Smedberg	"aye"	

10. SPECIAL USE PERMIT #2003-0095

800 FRANKLIN STREET
7-ELEVEN CONVENIENCE STORE

Public Hearing and Consideration of a request for a special use permit for continuance of a nonconforming convenience store use; zoned CL/Commercial Low. Applicant: 7-Eleven Inc. by Maynard Sipe, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10, 12/16/03, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried 6-0, City Council approved the Planning Commission recommendation with an amendment to condition #25 stating, "all trucks making deliveries shall be made by trucks whose trailer length does not exceed 35 feet." The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Smedberg	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	absent
Woodson	"aye"		

11. SPECIAL USE PERMIT #2003-0094
1667 NORTH QUAKER LANE
7-ELEVEN CONVENIENCE STORE
Public Hearing and Consideration of a request for a special use permit for continuance of a nonconforming convenience store use; zoned CL/Commercial Low. Applicant: 7-Eleven Inc. by Maynard Sipe, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated December 2, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11, 12/16/03, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation with an amendment to condition #28 stating, "all trucks making deliveries shall be made by trucks whose trailer length does not exceed 35 feet." The voting was as follows:

Pepper	"aye"	Krupicka	"aye"
Gaines	"aye"	Macdonald	"aye"
Euille	"aye"	Smedberg	"aye"
Woodson	"aye"		

ORDINANCES AND RESOLUTIONS

12. Public Hearing, Second Reading and Final Passage of an Ordinance to amend the North Ridge/Rosemont Small Area Plan Chapter of the Master Plan by Changing the Land Use Designation of Property at the Intersection of West Glebe Road and Martha Custis Drive from Utility and Transportation to Residential Medium. (#17, 12/8/03) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12, 12/16/03, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 12, 12/16/03, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Woodson, seconded by Vice Mayor Pepper and carried unanimously by roll call vote, City Council closed the public hearing and finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

Woodson	"aye"	Gaines	"aye"
Pepper	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Smedberg	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4321

AN ORDINANCE to amend and reordain the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to such master plan as Master Plan Amendment No. 2003-0008 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

WHEREAS, the City Council of the City of Alexandria finds and determines that:

1. In Master Plan Amendment No. 2003-0008, an application has been made to amend the North Ridge/Rosemont Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, by changing the land use designation of property at the intersection of West Glebe Road and Martha Custis Drive from Utility and Transportation to Residential Medium.

2. The said amendment has heretofore been approved by the planning commission and city council after full opportunity for comment and public hearing.

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Land Use Plan Map of the North Ridge/Rosemont Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, be, and the same hereby is, amended by changing the land use designation of property at the intersection of West Glebe Road and Martha Custis Drive from Utility and Transportation to Residential Medium, as shown on the sketch plan entitled "MPA #2003-0008/REZ #2003-0004" dated October 7, 2003, attached hereto and incorporated fully herein by reference.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan map amendment, and a conforming amendment to the proposed zoning map, as part of the North Ridge/Rosemont Small Area Plan Chapter of 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 3. That all provisions of the North Ridge/Rosemont Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

Section 4. That the 1992 Master Plan (1998 ed.) of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 5. That the city clerk shall transmit a duly certified copy of this ordinance to the Clerk of the Circuit Court of the City of Alexandria, Virginia, and that the said Clerk of the Circuit Court shall file same among the court records.

Section 6. That this ordinance shall become effective upon the date and at the time of its final passage.

13. Public Hearing, Second Reading and Final Passage of an Ordinance to Rezone Property at the Intersection of West Glebe Road and Martha Custis Drive from UT/Utility and Transportation Zone to RB Townhouse Zone with proffers. (#18, 12/8/03) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No 13, 12/16/03, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 13, 12/16/03, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilwoman Woodson and carried unanimously by roll call vote, City Council closed the public hearing and finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Woodson	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Smedberg	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4322

AN ORDINANCE to amend and reordain Sheet No. 6.01 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 (OFFICIAL ZONING MAP AND DISTRICT BOUNDARIES), of the City of Alexandria Zoning Ordinance, by rezoning property at the intersection of West Glebe Road and Martha Custis Drive from UT/Utilities and Transportation Zone to RB/Townhouse Zone, subject to a proffer, in accordance with the said zoning map amendment heretofore approved by city council as Rezoning No. 2003-0004.

WHEREAS, the City Council finds and determines that:

1. In Rezoning No. 2003-0004, an application has been made to rezone property at the intersection of West Glebe Road and Martha Custis Drive from UT/Utilities and Transportation Zone to RB/Townhouse Zone, subject to a proffer;
2. The said rezoning is in conformity with the 1992 Master Plan of the City of Alexandria, Virginia, as amended;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Sheet No. 6.01 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 of the City of Alexandria Zoning Ordinance, be, and the same hereby is, amended by changing, in the manner set forth below, the zoning classification of the property hereinafter described:

The property at the intersection of West Glebe Road and Martha Custis Drive (Tax Map and Zoning Map Parcel No. 6.01-02-02), comprising 1.63 acres of land, more or less, as shown on the sketch plan entitled "MPA #2003-0008/REZ #2003-0004" dated October 7, 2003, attached hereto and incorporated fully herein by reference.

FROM: UT/Utilities and Transportation Zone
TO: RB/Townhouse Zone

Subject, however, to the following proffer:

Section 1. The development of the subject property shall occur in substantial conformance with the final approved development plan proposed as Development Special Use Permit No. 2003-0013, as such Development Special Use Permit may be amended by City Council.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing amendment on the said map.

Section 3. That Sheet No. 6.01 of the "Official Zoning Map, Alexandria, Virginia," as so amended, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage.

14. Public Hearing, Second Reading and Final Passage of an Ordinance to Approve an Encroachment into the Public Sidewalk Right-of-Way at 122/124 North Fayette Street. (#19, 12/8/03) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No 14, 12/16/03, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 14, 12/16/03, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried unanimously by roll call vote, City Council closed the public hearing and finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Smedberg	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Woodson	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4320

AN ORDINANCE authorizing the owner of 122/124 North Fayette Street to establish and maintain an encroachment for a building wall and bay windows into the public sidewalk right-of-way at 122/124 North Fayette Street, in the City of Alexandria, Virginia.

WHEREAS, David S. Carmak ("Owner") is the Owner of the property located at 122/124 North Fayette Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to maintain an existing building wall and to construct two bay windows which will encroach into the public sidewalk right-of-way at 122/124 North Fayette Street; and

WHEREAS, the public right-of-way at that point on 122/124 North Fayette Street will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 122/124 North Fayette Street, in the City of Alexandria, said encroachment consisting of an existing building wall and two bay windows, as generally shown on the Encroachment Plan attached hereto, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on his part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at his own expense, liability insurance, covering both bodily injury and

property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence \$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of his obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following term:

- (a) Neither the City of Alexandria nor any public utility company shall be responsible for damage to Owner's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owner's maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of

Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment caused by the removal.

Section 8. That this ordinance shall be effective upon the date and at the time of its final passage.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (15-19)

Planning Commission (continued)

15. DEVELOPMENT SPECIAL USE PERMIT #2002-0038
1897 NORTH BEAUREGARD STREET
Public Hearing and Consideration of a request to amend a development special use permit to construct buildings on Plaza IA and Plaza IB; zoned CDD/Coordinated Development District. Applicant: The Mark Winkler Company by J. Howard Middleton, Jr. Esq., attorney.

COMMISSION ACTION: Deferred

16. SPECIAL USE PERMIT #2003-0037
1897 NORTH BEAUREGARD STREET
Public Hearing and Consideration of a request to amend the transportation management plan for Mark Center Plaza IA and IB; zoned CDD/Coordinated Development District. Applicant: The Mark Winkler Company by J. Howard Middleton, Jr., Esq., attorney

COMMISSION ACTION: Deferred

17. REZONING #2002-0004
11-21 NORTH QUAKER LANE
QUAKER VIEW
Public Hearing and Consideration of a request to rezone the property to amend a proffer prohibiting residential use; zoned CL/Commercial Low

COMMISSION ACTION: Deferred

18. DEVELOPMENT SITE PLAN #2003-0032
11-21 NORTH QUAKER LANE
QUAKER VIEW
Public Hearing and Consideration of a request to develop eight townhouse-style condominiums with modifications; zoned CL/Commercial Low

COMMISSION ACTION: Deferred
19. VACATION #2003-0004
116 WEST ALEXANDRIA AVENUE
Public Hearing and Consideration of a request to vacate a public alley; zoned R-5/Residential. Applicant: Brett Rugo by Gaver Nichols, agent

COMMISSION ACTION: Deferred

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Without objection, City Council noted the deferrals.

OTHER BUSINESS

20. Consideration of Allocation of Capital Improvement Program and Housing Trust Fund Funds to the Alexandria Redevelopment and Housing Authority (ARHA) for the Samuel Madden Homes Downtown ARHA Project. **(This is Not a Public Hearing.)**

(A copy of the report dated December 12, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 20, 12/16/03, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilwoman Woodson and carried unanimously, City Council permitted the allocation of Capital Improvement Program and Housing Trust Fund Funds to the Alexandria Redevelopment and Housing Authority (ARHA) for the Samuel Madden Homes Downtown ARHA Project. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Woodson	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Smedberg	"aye"	

NEW BUSINESS ITEM NO. 3 Councilman Krupicka read a letter from Mayor Euille and himself about the possible creation of an All City Sports Facility in Alexandria. Councilman Krupicka requested that staff begin working with the newly formed Alexandrians for an All City Sports Facility to investigate the viability of such a project

and present some options to move this project forward.

NEW BUSINESS ITEM NO. 4 Mayor Euille reported that the Woodrow Wilson Bridge and Virginia Department of Transportation (VDOT) have started a program called "Mission Possible: Bridge, Bucks and Commuter Alternatives Program" Mayor Euille stated that this one year pilot program would provide commuter alternatives while the Woodrow Wilson Bridge is under construction and encourage use of mass transportation. The initiative starts January 8, 2004 and that more information was available at www.wilsonbridge.com at or 1-877-INFO-WWB.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilwoman Woodson and carried unanimously, City Council adjourned the meeting at 11:56 p.m. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Woodson	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Smedberg	"aye"	

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Gloria A. Sitton Deputy City Clerk

This docket is subject to change.

* * * * *

Full-text copies of ordinances, resolutions, and agenda items are available in the Office of the City Clerk and Clerk of the Council.

* * * * *

Individuals with disabilities who require assistance or special arrangements to participate in the City Council meeting may call the City Clerk and Clerk of Council's Office at 838-4500 (TTY/TDD 838-5056). We request that you provide a 48-hour notice so that the proper arrangements may be made.

* * * * *

Individuals who require translation services to participate in the City Council meeting may call the City Clerk and Clerk of Council's Office at 838-4500. We request that you provide a 48-hour notice so that the proper arrangements may be made.